

# NOTIFICATION.

No. R. L. 1628-57, dated Bangalore, 10th December 1945.

Under the provisions of Rule 36 of the Mysore Legislative Rules, 1941, the Dewan has been pleased to order the publication in the *Mysore Gazette* of the Abolition of Whipping Bill together with the Statement of Objects and Reasons.

S. KANAKARATNARAJ,  
Legal Remembrancer and  
Secretary to Government,  
Law Department.

## THE ABOLITION OF WHIPPING BILL.

**A Bill to provide for the abolition of the sentence of whipping.**

WHEREAS it is expedient to provide for the abolition of the sentence of whipping;

It is hereby enacted as follows:—

1. (1) This Act may be called the Abolition of Whipping Act, 194 .
- (2) It extends to the whole of Mysore.
- (3) It shall come into force at once.

Short title,  
extent and  
commence-  
ment.

2. Notwithstanding anything contained in any law for the time being in force, no person shall be punished with a sentence of whipping by any court or other authority for any offence under any law whatsoever.

Abolition of  
the sentence  
of whipping.

3. The Acts specified in the Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

Repeal of  
certain Acts.

## THE SCHEDULE

### ACTS REPEALED

(See Section 3.)

| Year | No. | Short title                          | Extent of Repeal                                                                  |
|------|-----|--------------------------------------|-----------------------------------------------------------------------------------|
| 1    | 2   | 3                                    | 4                                                                                 |
| 1903 | V   | The Mysore Whipping Act 1903.        | The whole.                                                                        |
| 1904 | II  | The Code of Criminal Procedure 1904. | Sections 390, 391, 392, 393, 394, 395 and the words "or whipping" in section 396. |

| Year | No. | Short title                           | Extent of Repeal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|------|-----|---------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1    | 2   | 3                                     | 4                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 1942 | XXV | The Penalties (Enhancement) Act 1942. | <ol style="list-style-type: none"> <li>1. The words "or with whipping, or with whipping in addition to such rigorous imprisonment" in section 8;</li> <li>2. The words "or with whipping or with whipping in addition to any punishment to which he is liable under the said Code" in section 4;</li> <li>3. The words "or with whipping or with whipping in addition to any punishment to which he is liable under the said rule" in section 6;</li> <li>4. The words "or under the Whipping Act, 1903," and the words "or in the case of an offence punishable under section 330 or section 332 with whipping in addition to any punishment to which he is liable under the said Code" in section 6;</li> <li>5. Section 7;</li> <li>6. The words "or with whipping, or with whipping in addition to any punishment to which he is liable under the said Act" in section 7-A.</li> </ol> |

### Statement of Objects and Reasons.

The provisions of the law with regard to whipping as a judicial sentence are contained in sections 2 to 7 of the Mysore Whipping Act, 1903 (V of 1903), sections 390 to 396 of the Code of Criminal Procedure, 1904, and sections 3 to 7-A of the Penalties (Enhancement) Act, 1942.

Under the Whipping Act, it may be awarded as an alternative punishment for offences of the nature of, or allied to, theft, extortion, receiving stolen property and lurking house trespass or house-breaking. In respect of certain offences such as false evidence, false charge of an unnatural offence, indecent assaults on women, rape, unnatural offences, robbery or dacoity, forgery, etc., a second conviction renders the offender liable to whipping as an additional punishment. Juvenile offenders guilty of any offence punishable otherwise than with death may be sentenced to whipping in lieu of any other punishment.

The Criminal Procedure Code, 1904, prescribes the mode of inflicting the sentence of whipping and prohibits the whipping of females, of males sentenced to death, transportation, penal servitude or imprisonment for more than 5 years, and of males over 45 years of age.

The Penalties (Enhancement) Act, 1942, also provides for whipping under certain circumstances.

Mysore is perhaps the only Unit in the Indian Dominion which has abolished corporal punishment for prison offences, and the Mysore Prisons Act makes no provision for its infliction. It prevails, however, as a judicial punishment as pointed above.

238

8

Whipping as a legal punishment has been discontinued in practically every other country in the world, outside the British Empire. Among countries which have abolished it are Austria, Belgium, Czechoslovakia, Denmark, France, Germany, Greece, Holland, Hungary, Italy and Switzerland.

Corporal punishment is the oldest and most primitive method of dealing with criminal offenders, and public opinion has gradually realised its ineffectiveness as a deterrent. As observed by the learned authors of a recent work on penal reform:

"No one, of course, denies that flogging like any other punishment may have a certain deterrent effect. So, no doubt, would the thumbscrew if its use were revived. The question at issue is not whether it is a deterrent but whether it is a more effective deterrent than other less objectionable penalties which might be substituted. There is no evidence to support the view that flogging is specially effective or that its abolition would be followed by any worse effects than the disappearance of any of the other cruel punishments the abolition of which proved nothing but a benefit to the community." (Calvert: The Law Breaker, page 244).

This form of punishment is gradually falling into desuetude in the State and the number of persons sentenced to whipping usually forms a very small, if not insignificant, portion of all those subjected to punishment by the Criminal Courts in the State.

It is considered desirable to abolish this form of punishment and this Bill which makes provision for its abolition has accordingly been brought forward.

## NOTIFICATION.

No. R.L. 1628-57, dated Bangalore, 10th December 1948.

Under the provisions of Rule 36 of the Mysore Legislative Rules, 1941, the Dewan has been pleased to order the publication in the *Mysore Gazette* of the Mysore Short Titles Bill together with the Statement of Objects and Reasons.

S. KANAKARATNARAJ,  
*Legal Remembrancer and  
Secretary to Government,  
Law Department.*

### THE MYSORE SHORT TITLES BILL.

#### A Bill to facilitate the citation of certain Acts.

WHEREAS it is expedient to facilitate the citation of certain Acts;

It is hereby enacted as follows:—

1. This Act may be called the Mysore Short Titles Act, Short title.  
194

2. Each of the Acts described in the first three columns of the Schedule may, without prejudice to any other mode of citation, be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof.

Citation of  
certain  
Acts.

#### THE SCHEDULE.

| Year | No. | Subject                                                                                                                                                                                 | Short Title                                               |
|------|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|
| 1    | 2   | 3                                                                                                                                                                                       | 4                                                         |
| 1850 | XIX | Concerning the binding of apprentices ...                                                                                                                                               | The Apprentices Act, 1850.                                |
| 1867 | XXV | Providing for the regulation of printing-presses and News-papers, for the preservation of copies of books printed in the territories of Mysore, and for the registration of such books. | The Press and Registration of Books Act, 1867.            |
| 1873 | I   | An Act to prevent the indiscriminate destruction of wild elephants.                                                                                                                     | The Wild Elephants (Preservation) Act, 1873.              |
| 1885 | II  | Making special provision for the levy of Excise Duty payable on spirits used exclusively in Arts and Manufactures or in Chemistry.                                                      | The Excise (Spirits) Act, 1885.                           |
| 1892 | II  | Providing compensation to families for loss occasioned by the death of a person caused by actionable wrong.                                                                             | The Mysore Fatal Accidents Act, 1892.                     |
| 1893 | I   | Providing for avoiding loss by the default of public accountants.                                                                                                                       | The Mysore Public Accountants' Default Act, 1893.         |
| 1899 | I   | Assimilating the law relating to Post Offices in Mysore to that which is from time to time in force in British India.                                                                   | The Indian Post Office (Application to Mysore) Act, 1899. |
| 1899 | IV  | Applying the provisions of the Indian Telegraph Act, 1885, to all Telegraph lines in Mysore.                                                                                            | The Indian Telegraph (Application to Mysore) Act, 1899.   |

366

2

| Year | No. | Subject                                                                                                    | Short title                                                          |
|------|-----|------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------|
| 1    | 2   | 3                                                                                                          | 4                                                                    |
| 1899 | VI  | Providing for and regulating the destruction and segregation of stray dogs and diseased horses and cattle. | The Mysore Diseased Animals (Destruction and Segregation) Act, 1899. |
| 1902 | I   | Providing for the prevention of wrongful damage to the Kaveri Electric Power Transmission line.            | The Kaveri Electric Power Line (Protection) Act, 1902.               |
| 1903 | II  | Providing for the recovery of loans made to Agricultural Banks by Government.                              | The Agricultural Banks (Recovery of Government Loans) Act, 1903.     |
| 1910 | IV  | Providing for the recognition of the representative character of the Administrator-General of Madras.      | The Administrator-General of Madras (Recognition) Act, 1910.         |
| 1912 | I   | Providing for the protection of Judicial Officers.                                                         | The Mysore Judicial Officers' Protection Act, 1912.                  |

### The Statement of Objects and Reasons.

In our Statute Book there are some enactments with long titles and their citation is a source of inconvenience. It is very desirable that such enactments should be given appropriate short titles. This Bill has accordingly been brought for the purpose. It is proposed to give the Acts mentioned in the first column of the Schedule to the Bill, the short title given in the fourth column thereof.

341

## NOTIFICATION.

No. R. L. 1628-57, dated Bangalore, 10th December 1943.

Under the provisions of Rule 36 of the Mysore Legislative Rules, 1941, the Dewan has been pleased to order the publication in the *Mysore Gazette* of the Mysore Census Bill together with the Statement of Objects and Reasons.

S. KANAKARATNARAJ,  
*Legal Remembrancer and  
Secretary to Government,  
Law Department.*

### THE MYSORE CENSUS BILL.

**A Bill to provide for certain matters in connection  
with the taking of Census.**

#### ARRANGEMENT OF CLAUSES.

CLAUSE.

1. Short title and extent.
2. Government to take census.
3. Appointment of census staff.
4. Status of census authorities as public servants.
5. Discharge of duties of census-officer in certain cases.
6. Power to call upon certain persons to give assistance.
7. Asking of questions and obligation to answer.
8. Occupier to permit access and affixing of numbers.
9. Occupier or manager to fill up schedule.
10. Penalties.
11. Sanction required for prosecution.
12. Operation of other laws not barred.
13. Jurisdiction.
14. Records of census not open to inspection nor admissible in evidence.
15. Temporary suspension of other law as to mode of taking census in municipalities.
16. Power in regard to expenses.
17. Grant of statistical abstracts.
18. Power to make rules.

342

## THE MYSORE CENSUS BILL.

### A Bill to provide for certain matters in connection with the taking of Census.

Preamble.

WHEREAS it is expedient to provide for the taking of census in Mysore or any part thereof whenever necessary or desirable and to provide for certain matters in connection with the taking of such census ;

It is hereby enacted as follows :—

Short title and extent.

1. (1) This Act may be called the Mysore Census Act, 194 .

(2) It extends to the whole of Mysore.

Government to take census.

2. The Government may, by notification in the Official Gazette, declare its intention of taking a census in Mysore, or any part thereof, whenever it may consider it necessary or desirable so to do, and thereupon the census shall be taken.

Appointment of census staff.

3. (1) The Government may appoint a Superintendent of Census Operations to supervise the taking of the census in Mysore or any part thereof.

(2) The Government may appoint persons as Census Officers to take, or aid in, or supervise the taking of, the census within any specified local area and such persons when so appointed shall be bound to serve accordingly.

(3) A declaration in writing, signed by any authority authorised by the Government in this behalf, that any person has been duly appointed a census-officer for any local area shall be conclusive proof of such appointment.

(4) The Government may delegate to such authority as it thinks fit the power of appointing census-officers conferred by sub-section (2).

Status of census authorities as public servants

4. The Superintendent of Census Operations and all census-officers shall be deemed to be public servants within the meaning of the Indian Penal Code, as in force in Mysore.

Discharge of duties of census-officer in certain cases.

5. (1) Where the District Magistrate or such authority as the Government may appoint in this behalf, by a written order so directs—

(a) every officer in command of any body of men belonging to the Military Forces of His Highness the Maharaja,

(b) every person in charge of a lunatic asylum, hospital, workhouse, prison, reformatory, or lock-up or of any public, charitable, religious or educational institution,

(c) every keeper, secretary, or manager of any *sarai*, hotel, boarding-house, lodging-house, or club,

(d) every manager or officer of a railway or any commercial or industrial establishment, and

(e) every occupant of immovable property wherein at the time of the taking of the census, persons are living—

shall perform such of the duties of a census-officer in relation to the persons who at the time of the taking of the census are under his command or charge, or are inmates of his house, or are present on or in such immovable property or are employed under him, as may be specified in the order.

(2) All the provisions of this Act relating to a census-officer shall apply, so far as may be, to all persons while performing such duties under this section, and any person refusing or neglecting to perform any duty which under this section he is directed to perform, shall be deemed to have committed an offence under section 187 of the Indian Penal Code, as in force in Mysore.

6. The District Magistrate, or such authority as the Government may appoint in this behalf for any local area, may, by written order which shall have effect throughout the extent of his district or of such local area, as the case may be, call upon—

Power to call upon certain persons to give assistance.

(a) all owners and occupiers of land, tenure-holders, and farmers and assignees of land revenue, or their agents,

(b) all village officers and servants in alienated tracts including inam and khayamgutta villages and jahgirs, and

(c) all members and officers of village panchayets, district boards and municipal councils and other local authorities and servants of such authorities,—

to give such assistance as shall be specified in the order towards the taking of a census of the persons who are, at the time of the taking of the census, on the lands of such owners, occupiers, tenure-holders farmers and assignees, or in the villages or other areas for which such village officers and servants are appointed, or within the areas for which such local authorities are established, as the case may be, and the persons to whom an order under this section is directed shall be bound to obey it and shall, while acting in pursuance of such order, be deemed to be public servants within the meaning of the Indian Penal Code, as in force in Mysore.

Asking of  
questions and  
obligation to  
answer.

7. (1) A census-officer may ask all such questions of all persons within the limits of the local area for which he is appointed as, by instructions issued in this behalf by the Government and published in the Official Gazette, he may be directed to ask.

(2) Every person of whom any question is asked under sub-section (1) shall be legally bound to answer such questions to the best of his knowledge and belief:

Provided that no person shall be bound to state the name of any female member of his household, and no woman shall be bound to state the name of her husband or deceased husband, or of any other person whose name she is forbidden by custom to mention.

Occupier to  
permit access  
and affixing  
of numbers.

8. Every person occupying any house, enclosure or other place shall allow census-officers such access thereto as they may require for the purposes of the census and as, having regard to the customs of the country, may be reasonable, and shall allow them to paint on, or affix to, the place such letters, marks or numbers as may be necessary for the purposes of the census.

Occupier or  
manager to  
fill up  
schedule.

9. (1) Subject to such orders as the Government may issue in this behalf, a census-officer may, within the local area for which he is appointed, leave or cause to be left a schedule at any dwelling-house or with the manager of any officer of any commercial or industrial establishment, for the purpose of its being filled up by the occupier of such house or of any specified part thereof or by such manager or officer with such particulars as the Government may direct regarding the inmates of such house or part thereof, or the persons employed under such manager or officer, as the case may be, at the time of the taking of the census.

(2) When such schedule has been so left, the said occupier, manager or officer, as the case may be, shall fill it up or cause it to be filled up to the best of his knowledge or belief so far as regards the inmates of such house or part thereof or the persons employed under him, as the case may be, at the time aforesaid and shall sign his name thereto and, when so required, shall deliver the schedule so filled up and signed to the census-officer or to such persons as the census-officer may direct.

Penalties.

10. (1) (a) Any census-officer or any person lawfully required to give assistance towards the taking of a census who refuses, or neglects to use reasonable diligence in performing, any duty imposed upon him or in obeying any order issued to him in accordance with this Act or any rule made thereunder or any person who hinders or

obstructs another person in performing any such duty, or in obeying any such order, or

(b) any census-officer who intentionally puts any offensive or improper question or knowingly makes any false return or, without the previous sanction of the Government, discloses any information which he has received by means of; or for the purposes of, a census return, or

(c) any sorter, compiler or other member of the census staff who removes, secretes, damages or destroys any census document or deals with any census document in a manner likely to falsify or impair the tabulations of census results, or

(d) any person who intentionally gives a false answer to, or refuses to answer to the best of his knowledge or belief, any question asked of him by a census-officer which he is legally bound by section 7 to answer, or

(e) any person occupying any house, enclosure or other place who refuses to allow a census-officer such reasonable access thereto as he is required by section 8 to allow, or

(f) any person who, removes, obliterated, alters, or damages any letters, marks or numbers which have been painted or affixed for the purposes of the census, or

(g) any person, who having been required under section 9 to fill up a schedule, knowingly and without sufficient cause fails to comply with the provisions of that section, or makes any false return thereunder, or

(h) any person who trespasses into a census-office, shall be punishable with fine which may extend to one thousand rupees.

(2) Whoever abets any offence under sub-section (1) shall be punishable with fine which may extend to one thousand rupees.

11. No prosecution under this Act shall be instituted except with the previous sanction of the Government or of an authority authorised in this behalf by the Government.

Sanction  
required for  
prosecution.

12. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence under this Act.

Operation  
of other  
laws not  
barred.

Provided that no such prosecution shall be instituted except with the previous sanction referred to in section 11.

13. No Court inferior to that of a Magistrate of the Second Class shall try, whether under this Act or under any other law, any act or omission which constitutes an offence under this Act.

Jurisdiction.

Records of  
census not  
open to  
inspection  
nor admis-  
sible in  
evidence.

14. No person shall have a right to inspect any book, register or record made by a census-officer in the discharge of his duty as such, or any schedule delivered under section 9 and notwithstanding anything to the contrary in the Indian Evidence Act, 1872 as in force in Mysore, no entry in any such book, register, record or schedule shall be admissible in evidence in any civil proceeding whatsoever or in any criminal proceeding other than a prosecution under this Act or any other law for any act or omission which constitutes an offence under this Act.

Temporary  
suspension  
of other  
laws as to  
mode of  
taking census  
in municip-  
alities.

15. Notwithstanding anything in any enactment or rule with respect to the mode in which a census is to be taken in any municipality, the municipal authority, in consultation with the Superintendent of Census Operations or with such authority as the Government may authorise in this behalf, shall, at the time appointed for the taking of any census, cause the census of the municipality to be taken wholly or in part by any method authorised by or under this Act.

Power in  
regard to  
expenses.

16. Notwithstanding anything in any enactment or rule in regard to municipal, local, or village funds, the Government may direct that the whole or any part of any expenses incurred for anything done in accordance with this Act or the rules made thereunder may be charged to any municipal, local or village funds constituted for, and on behalf of, the area within which such expenses were incurred.

Grant of  
statistical  
abstracts.

17. The Superintendent of Census Operations or such person as the Government may authorise in this behalf may, if he so thinks fit, at the request and cost (to be determined by him) of any local authority or person, cause abstracts to be prepared and supplied containing any such statistical information as can be derived from the census returns for the State or any part thereof, as the case may be, being information which is not contained in any published report and which in his opinion it is reasonable for that authority or person to require.

Power to  
make rules.

18. (1) The Government may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the Government may make rules providing for the appointment of census-officers and of persons to perform any of the duties of census-officers or to give assistance towards the taking of a census, and for the general instructions to be issued to such officers and persons.

### Statement of Objects and Reasons.

Legislation alone can confer the powers to put questions, mark buildings, etc., for the purposes of a census. There is no Census Act in force at the moment, since all the former Census Acts were confined to the specific census undertaken in particular years. Legislation is, therefore, necessary to provide for the census operations now to be undertaken. The present Bill is intended to be a measure for all time, unlike the previous Census Acts. It differs from the Mysore Census Act, 1940, (IX of 1940), in that it provides for a general continuous cover for census operations to be undertaken at any time, raises the fine limit from Rs. 500 to Rs. 1000, makes abetment of census offences punishable, provides against tampering by the tabulation staff, makes it obligatory on persons nominated as census-officers by the Government to serve in the capacity directed and provides for the grant of statistical abstracts at the request and cost of any local authority or person. In other respects, it follows the Census Act of 1940.